REMARKS

The specification has been amended, as requested by the Examiner, to update the status of the priority documents, and to correct certain formalities (e.g., insert the current address of the ATCC, and insert a trademark symbol where appropriate).

Claim 12 has been amended to delete reference to the TS2/9 antibody. Minor grammatical amendments have been made to claims 12 and 53. Claims 6 and 43 have been amended to recite a heavy chain hinge region, as supported by the specification at page 29, lines 1-5. New claims 55-57 have been added and are supported by the specification at page 18, lines 8-11. No new matter has been added.

Applicants acknowledge the withdrawal of the prior restriction and species election requirements. Claims 1-57 are pending and under examination.

Priority

In paragraph 2 of the Office Action, the Examiner states that "priority application USSN 07/770,969, filed 10/7/91 does not support the broader claims of the instant application."

All the pending claims (except for claims 7, 36, 44 and 54) have written support and claim priority back to USSN 07/770,969 (the '969 application), filed October 7, 1991. Claims 7, 36, 44 and 54 are supported in U.S.S.N. 07/862,022, filed April 2, 1992. The following paragraphs point out where support for each of the recited claim limitations (other than those of claim 7, 36, 44 and 54) can be found in the '969 application as filed on October 7, 1991.

Support for "preventing or treating skin conditions characterized by increased T cell activation and abnormal antigen presentation in the dermis and epidermis" (claim 1) is provided in the '969 application as filed, e.g., at page 8, lines 13-16.

Support for "a CD2 polypeptide, an LFA-3 polypeptide, an anti-CD2 antibody homolog, and an anti-LFA-3 antibody homolog" (claims 1, 4, 5, 8-11, 14-21, 38-42, and 45-48) is provided, e.g., at page 12, lines 27-31 and pages 13-27.

Support for "in combination with a therapy selected from the group consisting of PUVA, chemotherapy and UV light" (all claims) is provided, e.g., at page 31, lines 20-26.

Support for each of the specific skin conditions recited in the claims (claims 2, 3, 37 and 38) is provided, e.g., at page 8, lines 23-30.

Support for "a soluble LFA-3 polypeptide fused to all or part of an immunoglobulin heavy chain region and all or part of a heavy chain constant region" (claims 6, 35, 43, and 53) is provided, e.g., at page 29, lines 1-5.

Support for monoclonal, chimeric, and humanized antibody homologs (claims 10, 11, 14-17, 46, and 48) is provided, e.g., at page 13, lines 26-32 and generally at pages 13-19.

Support for the specific hybridomas recited in claims 12 and 13 is provided, e.g., at page 14, lines 1-5.

Support for the various antibody fragments recited in claims 18 and 19 is provided, e.g., at page 19, lines 1-32.

Support for the specific fragments of SEQ ID NO:2 recited in claims 22 and 49 is provided, e.g., at page 20, lines 13-21.

Support for treatment of a human (claims 23 and 50) is provided, e.g., at page 1, line 10.

Support for the specific dosages and dosing regimens recited in claims 24-30 is provided, e.g., at page 30, lines 4-21.

Support for the various modes of administration recited in claims 31-32 is provided, e.g., at page 32, lines 1-8.

Support for the agents being linked to "anti-LFA-3 antibody homologs, soluble CD2 polypeptides, cytotoxic agents and pharmaceutical agents" or to "anti-CD2 antibody homologs, soluble LFA-3 polypeptides, cytotoxic agents and pharmaceutical agents (claims 33-34) is provided, e.g., at page 27, line 26 to page 28, line 3, and generally at pages 28-29.

Support for "soluble LFA-3 polypeptide comprises AA_1-AA_{92} of SEQ ID NO:2 fused to a portion of a human IgG1 hinge region and the CH2 and CH3 regions of an IgG_1 heavy chain constant domain" (new claims 55-57) is provided, e.g., at page 29, lines 7-16.

Oath/Declaration

In paragraph 3 of the Office Action, the Examiner states that the declaration or oath is defective, and that a new declaration identifying the application by application number and filing

date is required. Applicants respectfully disagree with the Examiner's assertion that a new oath is required.

The present application is a continuation of 08/466,465. 37 C.F.R. §1.63 (d)(1) notes that: "A newly executed oath or declaration is not required under §1.51(b)(2) and § 1.53(f) in a continuation or divisional application, provided that: (i) the prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section." The oath filed in the instant application is a copy of the oath filed at the time the prior, non-provisional parent of the instant application was filed. Since this oath was submitted at the time the parent (08/466,465) was filed, it did not refer to 08/466,465 by its serial number and filing date. However, this oath properly identified the parent application by its title and was attached to the parent application at the time the parent application was filed. The oath properly claims the benefit of priority under 35 USC §120 and acknowledges Applicants' duty to disclose all information material to patentability under 37 C.F.R. 1.56. Thus, the oath is proper under 37 C.F.R. 1.63. The absence of the application serial number and filing date should not render the present oath defective where the oath was filed along with the parent of the present continuation application. However, in the event that the Examiner maintains this objection, Applicants will submit a new oath.

Information Disclosure Statement

Applicants submit herewith, as requested by the Examiner, an amended copy of the PTO Form 1449 filed with the Information Disclosure Statement (IDS) filed June 7, 2002. The amended PTO Form 1449 is identical to that filed with the IDS of June 7, 2002, except that the full citation is provided for the few references which were listed with abbreviated citation format in the original IDS of June 7, 2002. Applicants respectfully request that the Examiner initial, date and return the amended PTO Form 1449.

Rejections Under 35 U.S.C. §112, First and Second Paragraph

Claim 12 is rejected as indefinite and lacking enablement with respect to the TS2/9 antibody. Claim 12 has been amended to delete reference to the TS2/9 antibody, rendering the rejections moot.

Obviousness-Type Double Patenting

Claims 1-54 are rejected as being unpatentable over claims 1-55 of U.S. Pat. No. 6,162,432 (the '432 patent). Applicants do not agree with the basis for the rejection. However, merely in the interest of expediting prosecution, Applicants will remove and obviate the rejection by submitting a terminal disclaimer by the common Assignees of the present application and the '432 patent. A terminal disclaimer is not an admission or comment regarding the merits of the rejection. (Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991)).

An unsigned version of the terminal disclaimer is submitted herewith for the Examiner's information. An executed copy will be filed in the near future under separate cover.

If a telephone conversation with Applicant's Attorney would expedite the prosecution of this application, the Examiner is urged to call Applicant's Attorney at (617) 542-5070.